

Application No. 10/540,086
Response to Office Action dated September 7, 2007
Paper dated December 7, 2007
Attorney Docket No. 4544-051936

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/540,086 Confirmation No. : 6434
Applicants : Krishna Prasad Hanumanthappa et al.
Filed : December 28, 2005
Title : Characterization of *hupB* Gene Encoding Histone Like Protein of
Mycobacterium Tuberculosis
Art Unit : 1634
Examiner : Sarae L. Bausch
Customer No. : 28289

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Election with Traverse

Sir:

This is in response to the Office Action dated September 7, 2007, in which a shortened statutory period for reply was set for one month, in connection with the above-referenced application.

Applicants submit herewith a Petition for a two-month Extension of Time.

I hereby certify that this correspondence is being submitted electronically to the United States Patent and Trademark Office on the date below.

Susette McCreight

(Name of Person Submitting Paper)

Susette McCreight
Signature

December 7, 2007
Date

In the Office Action, the claims have been restricted under 35 U.S.C. §121 and 372 between the following distinct inventions as follows:

Group I: Claims 25, 45-46, drawn to nucleic acid;

Group II: Claims 26-44, drawn to a method for differentiating *Mycobacterium* species.

The Examiner has required restriction to a single invention for prosecution. The Office Action asserts that Group I and Group II do not relate to a single general inventive concept because they lack the same special technical feature. Particularly, the Office Action states that the technical feature of Group I and Group II is the *hupB* gene of a mycobacterium species which does not define a contribution over the prior art reference of Cohavy et al. (Infection and Immunity, Dec 1999, vol. 67, pp. 6510-6517).

The Applicants hereby elect for further prosecution, Group II, Claims 26-44 drawn to a method for differentiating *Mycobacterium* species **with traverse**.

The restriction requirement is respectfully traversed for the following reasons:

Applicant asserts that the claimed invention defines a contribution over prior art Cohavy et al. Cohavy et al. teach cross reacting an antibody specific for a leukocyte antigen (pANCA) with *hupB*. Cohavy et al. note that the cross reaction of pANCA with *hupB* demonstrates the possible role of mycobacteria in inflammatory bowel disease (IBD). Cohavy et al. in no way teach or suggest the claimed invention, namely the differentiation of mycobacteria species (i.e. *M.tuberculosis*/*M.bovis*) based on target gene encoding for histone like proteins such as *hupB*.

Additionally, the Office Action requires a selection to be made between SEQ. ID No. 7 and SEQ. ID No. 8 and a primer pair for either group.

The Applicants hereby elect for further prosecution, SEQ. ID. No. 8 for further prosecution **with traverse**. This restriction requirement is traversed because the primers are common for both species.

For the reasons set forth above, it is respectfully requested that the restriction requirement be withdrawn and all claims currently pending in the application be examined.

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Should the Examiner have any questions regarding this election, the Examiner is invited to contact the Applicant's undersigned representative by telephone at the number listed below.

Respectfully submitted,

THE WEBB LAW FIRM

By

A handwritten signature in black ink, appearing to read 'W. H. Logsdon', written over a horizontal line.

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